

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 5, 2010, has been entered.

2. Claims 1, 5 and 7 have been amended. Claims 3 and 4 have been cancelled. Claims 7 and 8 have been withdrawn from consideration as being drawn to a non-elected group. Claim 11 has been added as new. Therefore, Claims 1, 2, 5, 6 and 9-11 are pending in this office action.

Election/Restrictions

3. This application is in condition for allowance except for the presence of claims 7 and 8 which are directed to a non-elected group without traverse, according to the Response to Restriction dated September 14, 2009. Accordingly, Claims 7 and 8 have been cancelled.

Claim Rejections - 35 USC § 112

4. The rejection of Claims 1, 2, 5, 6, 9 and 10 under 35 U.S.C. 112, second paragraph, has been overcome based on the amendments to the claims.

Claim Rejections - 35 USC § 103

5. The rejection of Claims 1-2, 5-6 and 9-10 under 35 U.S.C. 103(a) as being unpatentable over Hennige et al. (US 2004/0038105 A1) has been overcome based on the amendments to the claims and the arguments presented on pages 5-7 of the Remarks dated October 5, 2010.

EXAMINER'S AMENDMENT

6. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

IN THE CLAIMS

Cancel Claims 7 and 8.

Reasons for Allowance

7. Claims 1, 2, 5, 6, and 9-11 are allowed.
8. The following is an examiner's statement of reasons for allowance: the instant invention it to a proton-conducting polymer membrane wherein 1 to 40 parts by weight of solid proton conductor having sulfoalkyl or sulfoaryl groups in metal phosphate layers of the solid proton conductor wherein the metal is a group IV metal is dispersed in 100 parts by weight of proton-conducting polymer having proton-exchanging groups in side chain. Independent Claim 11 is drawn to a similar product, as claimed.

The most pertinent prior art has been presented. The prior art does not teach the claimed invention.

With regard to Claims 1 and 11, the closest prior art, Hennige et al. (US 2004/0038105), does not teach or fairly suggest a proton-conducting polymer membrane wherein 1 to 40 parts by weight of *solid proton conductor* having *sulfoalkyl or sulfoaryl groups in metal phosphate layers* of the solid proton conductor *dispersed in a proton conducting polymer having proton-exchanging groups in a side chain*.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karie O'Neill Apicella whose telephone number is (571) 272-8614. The examiner can normally be reached on Monday through Friday from 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Karie O'Neill Apicella/
Primary Examiner
Art Unit 1726

KOA